IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

P.I.L. NO. 1 OF 2007

Sushil Kumar .. Petitioner

V/s

Kendriya Vidyalaya & Ors. .. Respondents

Ms. Sheetal Kumar i/b Mila Bhise & Co. for the Petitioner.

Mr.Suresh Kumar for Respondents No.1 and 2.

Mr.Vinay Masurkar for Respondent No.3.

Mr.V.M. Phal, A.G.P. for Respondents No.4 and 5.

Ms.Jyoti Saigal for Respondents No.6 and 7.

Mrs.Deepa Chavan for the H.S.C. Board.

CORAM : H.L. GOKHALE, ACG. CJ. &
V.M. KANADE, J.

DATE : 26TH FEBRUARY 2007

P.C. :

1. Heard the counsel for the parties.

2. Rule. Rule is made returnable forthwith.

3. This petition is filed by a father of a student who is stated to be suffering from Dyslexia and Dysgraphia which are learning disabilities. He is presently in XII standard. When he appeared for the X

standard examination conducted by the Central Board of Secondary Education, he was permitted an appropriate assistance. He was allowed to avail of additional one hour time for each paper as well as use of Amanuensis, i.e. making available a writer. Now that he is in XII standard, the petition is filed requesting that he may be permitted to use the facility of a calculator in writing his board examination. Amongst the papers he has taken, there are papers in Mathematics, Physics and Chemistry, for which he wants this assistance.

4. Reliance is placed on an order passed by another Division Bench in Writ Petition No.165 of 2004 on 9th August 2006 in the case of Dr. Sanjay Mhatre, who had filed the petition against the Secretaries of Secondary and Higher Secondary Board, Maharashtra. The cause which was espoused in that petition was also with respect to the students of XII standard suffering from learning disability and the request was made for permission to use calculator in the papers of Mathematics, Book Keeping and Accountancy. The Division Bench was presented a report of an Expert Committee at the instance of the H.S.C. Board made by one Dr. Madhuri Kulkarni from the Municipal Hospital at Sion. The report had various recommendations. The report noted that calculators are provided for students who are

taking higher courses in commerce in some of the countries world over. The Committee unanimously recommended the use of calculators to all the students of XII standard in Book Keeping and Accountancy papers in the commerce stream of H.S.C. Board Examination. The authorities of the H.S.C. Board however took a different view and they opposed the facility being extended though they were agreeable to give extra hours for writing the examinations to the students suffering from learning disability. The Division Bench, which heard the matter, noted all these objections and by its aforesaid order directed the H.S.C. Board to provide calculators to the students suffering from learning disability in Book Keeping, Accountancy and Mathematics. The H.S.C. Board has accepted that order and it is being implemented as far as the students of XII standard suffering from learning disabilities in Maharashtra are concerned.

5. The Petitioner seeks a parity with the students of the H.S.C. Board.

6. Mr.Masurkar, learned counsel for Respondent No.3 - Central Board, submitted that as far as the Central Board is concerned, its views are similar to those of the State Board. The Central Board has no objection to

giving extra hours for writing the papers though it is not agreeable to provide the calculators. He relies upon the reports of some experts to the same effect.

7. We have noted the submissions of the Petitioner as well as those of the Respondents. In our view, on the basis of parity, if the students writing the commerce and mathematics papers for the H.S.C. Board are permitted calculators in the event they are suffering from learning disability, the students giving the examinations of the Central Board should also be permitted the similar facilities. This will however depend upon the facts of each case. As far as the present Petitioner is concerned, undoubtedly he was permitted a facility when he gave the X standard examination. He was given a writer and was given an extra hour to write his paper. Now he does not need a writer, but needs a calculator. One of the defences of the Central Board is that such a student may not opt for mathematics. In our view, this is not a fair approach of the Central Board. On the contrary, if a student takes mathematics, he may be assisted and he should be appreciated and encouraged by providing a tool in the nature of a calculator. We could have passed a similar order for the subjects of Physics and Chemistry, but we are refraining from doing so for the reason that there

is no previous order passed for these subjects.

8. For the reasons stated above, we direct the Central Board of Secondary Education to permit the Petitioner to use an ordinary calculator for writing the Mathematics paper. We make it clear that this order is confined only to the Petitioner though if there are students similarly situated, the Central Board may consider their applications, when made, on the similar basis.

9. Rule is made absolute as above.

ACTING CHIEF JUSTICE

V.M. KANADE, J.